



Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEES TRANSMITTAL

## For FY 2006

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 390)

| Complete if Known    |                 |
|----------------------|-----------------|
| Application Number   | 10/828,765      |
| Filing Date          | April 20, 2004  |
| First Named Inventor | Fink, James     |
| Examiner Name        | Lewis, Aaron J. |
| Art Unit             | 3743            |
| Attorney Docket No.  | 016770-007100US |

**METHOD OF PAYMENT** (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_  
 Deposit Account Deposit Account Number: 20-1430 Deposit Account Name: Townsend and Townsend and Crew LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee  
 Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments  
 under 37 CFR 1.16 and 1.17

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**FEE CALCULATION** (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| <u>Application Type</u> | <u>FILING FEES</u>  |                 | <u>SEARCH FEES</u>  |                 | <u>EXAMINATION FEES</u> |                 |                       |
|-------------------------|---------------------|-----------------|---------------------|-----------------|-------------------------|-----------------|-----------------------|
|                         | <u>Small Entity</u> | <u>Fee (\$)</u> | <u>Small Entity</u> | <u>Fee (\$)</u> | <u>Small Entity</u>     | <u>Fee (\$)</u> | <u>Fees Paid (\$)</u> |
| Utility                 | 300                 | 150             | 500                 | 250             | 200                     | 100             | _____                 |
| Design                  | 200                 | 100             | 100                 | 50              | 130                     | 65              | _____                 |
| Plant                   | 200                 | 100             | 300                 | 150             | 160                     | 80              | _____                 |
| Reissue                 | 300                 | 150             | 500                 | 250             | 600                     | 300             | _____                 |
| Provisional             | 200                 | 100             | 0                   | 0               | 0                       | 0               | _____                 |

**2. EXCESS CLAIM FEES**Fee Description

|   |                     | <u>Small Entity</u> |                      |
|---|---------------------|---------------------|----------------------|
| Each claim over 20 (including Reissues)                               |                     | Fee (\$)            | Fee (\$)             |
| Each independent claim over 3 (including Reissues)                    |                     | 50                  | 25                   |
| Multiple dependent claims   |                     | 200                 | 100                  |
| Total Claims  | <u>Extra Claims</u> | <u>Fee (\$)</u>     | <u>Fee Paid (\$)</u> |
|   | -20 or HP =         | x                   | =                    |
| HP = highest number of total claims paid for, if greater than 20      |                     |                     |                      |
| Indep. Claims   | <u>Extra Claims</u> | <u>Fee (\$)</u>     | <u>Fee Paid (\$)</u> |
|   | -3 or HP =          | x                   | =                    |
| HP = highest number of independent claims paid for, if greater than 3 |                     |                     |                      |

**3. APPLICATION SIZE FEE**

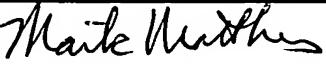
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| <u>Total Sheets</u> | <u>Extra Sheets</u> | <u>Number of each additional 50 or fraction thereof</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
|---------------------|---------------------|---|-----------------|----------------------|
|                     | - 100 =             | / 50 = (round up to a whole number) x                   |                 | =                    |

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount) \_\_\_\_\_  
 Other (e.g., late filing surcharge): Terminal Disclaimer \_\_\_\_\_ 390

**SUBMITTED BY**

|                   |   |  |                        |
|-------------------|---|--|------------------------|
| Signature         |  | Registration No. (Attorney/Agent) 26,201 | Telephone 303-571-4000 |
| Name (Print/Type) | Mart C. Matthews  |  | Date July 7, 2006      |

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PTO/SB/25 (10-05)

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING  
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Docket Number (Optional)  
016770-007100US

In re Application of: James Fink et al.

Application No.: 10/828,765

Filed: April 20, 2004

For: VENTILATION SYSTEMS AND METHODS EMPLOYING AEROSOL VENTILATORS

The owner\*, Nektar Therapeutics, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/957,321, filed on September 30, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

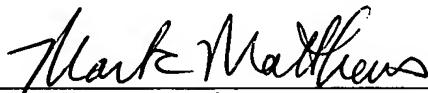
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney or agent of record. Reg. No. 26,201.



Signature

July 7, 2006

Date

Mart C. Matthews  
Typed or printed name

(303) 571-4000  
Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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